

C<sup>2</sup> 9. (Twice Amended) A method for preventing mastitis in a dairy cow, which comprises selecting a dairy cow that exhibits an increased number of somatic cells in her milk, and administering feedstuff comprising a therapeutically effective amount of phytase to said dairy cow.

increased  
by  
how  
much

#### REMARKS

Claims 1 and 9 have been amended in order to better recite the patentable features of the present invention. These changes are in conformity with the Examiner's kind suggestions during the telephone interview of July 15, 2002. The Examiner's generous assistance and cooperation in formulating language to resolve the issues herein is gratefully acknowledged. Still, in order to complete the record, the outstanding rejections are discussed below.

#### (1) 35 U.S.C. 112, first paragraph

The Examiner states that the specification examples do not conclusively show administering phytase prevents mastitis in dairy cows since

[t]he art of biotechnology is very unpredictable especially in the administration of enzymes to treat diseases which have no known cure. The prevention of a disease such as mastitis, which as applicant has admitted has no known cure, is thus very incredible, since the converse has been admitted by applicant himself. Thus, applicant needs to provide further evidence showing conclusively that mastitis can be totally prevented *in vivo*.

Respectfully submitted, there is no basis in fact for this statement since *in vivo* results have been presented and are of record. The results shown in Table 1 of Example 1, Table 2 of Example 2, Table 3 of Example 3 and Table 7 of Example 7 plainly

no evidence  
of total  
prevention  
no  
"zero"  
numbers  
absolutely  
no  
mastitis.